

Conservation Organization Guide to Completing/Closing Massachusetts Forest Legacy Projects Conservation Restrictions

This guide lists the steps to complete/close a typical Forest Legacy project. The steps are written in chronological order. Be sure to review these steps with the MA DCR Forest Legacy Program before you begin to close a funded project as new requirements are the norm.

Submit the status spreadsheet to the MA DCR Forest Legacy Program each time there is a change to the project/tract budget and/or acreage.

Any amendments/changes to the project such as the addition of new tracts or the replacement of old tracts with new tracts will require MA Forest Legacy Committee approval.

A budget spreadsheet (see example on MA DCR Forest Legacy Program website) must be submitted with all requests for reimbursement of due diligence expenses.

Forest Legacy grants can fund – through reimbursement – much of the due diligence expenses relating to a project. However, Forest Legacy will only reimburse due diligence expenses that occur after DCR has received the Grant Award from the USFS. Only through the life of the grant can expenses be applied as cost share. Be sure to check with the MA DCR Forest Legacy Program.

Each time an item on the checklist (see page 5 below) is completed, the checklist should be submitted via email to the MA DCR Forest Legacy Program, along with the item, the date the new item was completed, and the date(s) any previously submitted items have been submitted.. The checklist should be used as a tracking tool. Please do not submit a new checklist each time an item is completed with just that item. The checklist is meant to be cumulative.

1. Send **Landowner W-9** to MA DCR. Ask MA DCR Forest Legacy Program who to send the W-9 to, and notify coordinator through email that the letter was sent.
 - a. To ensure that MA DCR can process the Forest Legacy funds in time, the landowner W-9 must be received no less than 2 months prior to closing.
2. Order and complete a **Title Examination** to Forest Legacy Program (FLP)/State EEA Specifications.
 - a. Send Title Report and Certificate to MA DCR Forest Legacy Program for review (hardcopy and PDF required).
 - b. The title report and certificate must be done in compliance with the state's title specifications. A hardcopy with original signatures in blue ink and a PDF is required.
 - c. Title Reports/Certificates of title must include a "Minerals Determination" (have any mineral rights been severed? i. e. – Oil, Gas, Coal, Water, etc...).
3. Complete **Draft CR** or deviations from the Forest Legacy Standard Conservation Restriction template and finalized/defined exclusion areas. Send final draft CR to MA DCR Forest Legacy Program for review.
 - a. Exclusions reserved for the purpose of future development (i.e. to be sub-divided) need survey and permanent monuments.
 - b. If the property has a mortgage, **Secure Mortgage Subordination** from mortgage lender.
 - c. The CR must include a metes and bounds description and / or reference a plan or exhibit (map) that is incorporated into the CR- containing the metes and bounds.
4. **Survey(s)** conducted as necessary to address exclusions negotiated in the CR and Title Examination recommendations of boundary issues.

- a. If no physical features defining an exclusion area exists (stone walls, fence, barbed wire) then contact MA DCR Forest Legacy Program to discuss potential need for a survey.
5. Order and complete the draft **Baseline Documentation Report (BDR)**. The draft BDR must be submitted to the MA DCR Forest Legacy program for review and comments before closing can occur, minus the deed or conservation restriction exhibit and signatures. Draft BDR must be submitted electronically as an MS Word document. Draft DCR must be written up to Forest Legacy BDR specifications.
6. Order and complete the **Forest Stewardship Plan (FSP)** to FLP Specifications (Must include references to NRCS Farm Conservation Plan if applicable). Send FSP to Forest Legacy for review.
 - a. The FSP must reference the final NRCS farm plan and other areas in the conservation project considered by Forest Legacy to be “compatible non-forest uses”. Up to 25% of a Forest Legacy project can contain compatible non-forest uses, which includes fields and water bodies.
 - b. Note: the exact acres of land to be conserved must be the same on all FLP documents. FSP acreage, CR acreage, Baseline Report acreage, Title exam acreage, Title Insurance acreage, Deed acreage, and Survey acreage need to match the survey exactly.
 - c. Should use the draft conservation restriction to ensure plan is written in compliance with CR. The plan should make reference to the Forest Legacy Program. This can be done in the history section under remarks on the front page of the plan and/or on the Property Overview, Regional Significance, and Management Summary page.
7. Order and complete an **NRCS Farm Conservation Plan** if the CR reserves agricultural rights (aka compatible non-forest uses). Send a hardcopy and PDF of the plan to MA DCR Forest Legacy program for review.
8. Order and complete **“Yellow Book” Appraisal and Review Appraisal** as follows:
 - a. Contract approved “yellow book” Appraiser and Review Appraiser simultaneously
 - b. Advise that Appraiser must consult with Review Appraiser prior to beginning the appraisal process.
 - c. Appraisal and Review Appraisal Report must include Appraisers/Reviewers MA Real Estate License Number and where & when they attended yellow book course in the qualifications section.
 - d. Have Appraisals reviewed by MA DCR Forest Legacy Program.
 - e. For a CR donation, the appraisal does not need to be yellow book but has to be written to USPAP specifications and the review appraisal is not needed.
9. Complete the **CR approval** process.
 - a. Any changes made at any time must be provided to MA DCR Forest Legacy Program for review and approval by USFS.
 - b. All CRs to be held by municipalities (or Land Trusts for full donations) must be submitted to EEA Conservation Restriction Reviewer for review and comments/edits.
 - c. Reviewed and approved changes to the CR must be forwarded to the appraiser and reviewer for consideration of updates/supplemental appraisal/review reports.
 - d. Any updates/supplemental appraisals and review appraisals must be provided to MA DCR Forest Legacy Program.
10. Obtain **Landowner Letter** for MA DCR Forest Legacy Program with signatures of Grantor and Grantee.
 - a. This letter acknowledges value of land as appraised, the agreed purchase price, and that the transaction is voluntary.
 - b. Letter must be on the official letterhead of title holder.

11. Obtain **Monitoring Commitment letter** for CR monitoring organization (municipality or land trust, etc.)
 - a. Letter must be on official letterhead of monitoring organization.
 - b. Non-profit partners must obtain a memorandum of understanding from a municipality or state agency that will hold title to the land in order to be reimbursed for any old expenses with said acquisition.
12. Submit **Shapefile** of each tract/property. The shapefile must include only the recorded acres under the CR and leave out any excluded areas. The acreage of the final shapefile must be within 5% of the recorded acreage in the deed. Project shapefiles to the **North American Datum 1983** (GCS_North_American_1983) and Zip all files of the shapefile into a single file (minimum of .shp, .shx, .prj, .dbf) for each tract/property.
13. Update **FLIS**: Each Tract must be updated in FLIS before the release of funds request will be submitted to the Forest Service, including: all expenses (acquisition, due diligence, and cost-share (acquisition & due diligence), acres, stewardship plan approval date, SSCC approval date, etc.
14. Purchase **Title Insurance** or obtain a **Letter of Assurance** in lieu of Title Insurance for CR.
 - a. Send a hardcopy and PDF of the **Title Insurance Commitment Letter** to MA DCR Forest Legacy Program.
 - b. Send a hardcopy and PDF of the **Letter of Assurance** in lieu of Title Insurance to MA DCR Forest Legacy Program.
15. **Memorandum of Agreement**: Grants partner authority to contract due diligence on behalf of municipality.
16. Obtain **State Contract** information if municipality is holding the CR.
 - a. Contractors name (City/Town)
 - b. Contract managers name (for municipality) including the managers address, phone number, fax number, email address, vendor code and vendor ID
 - c. Confirm budgeted amount to include in the contract for the acquisition expenses (do not include due diligence expenses).
17. Request **release of funds** from USFS. All required due diligence has been completed.
18. **Close project and record documents** at the Registry of Deeds.

Within 30 days after closing:

1. **Copy of the check or Electronic Funds Transfer** to the landowner from the Town, signed and dated.
2. Submit a stamped and **recorded copy of the CR** as a PDF.
3. Submit the **Final Title Rundown Report**.
4. Submit **Final Title Insurance Policy** as a PDF.
5. Complete and submit the **Final Baseline Documentation Report** with all required signatures and provide a hardcopy and CD/DVD of the report.
6. A **Press Article** must include the mention of Forest Legacy Program, the lead agency (Department of Conservation and Recreation) and the United State Forest Service (USFS). Alternatively, a **Sign may be**

posted on the property as long as a map delineating the location of the sign (with coordinates) along with a photograph is provided.

7. Submit **Zero Balance Invoices** for reimbursement of due diligence expenses to MA DCR Forest Legacy Program.
 - a. In lieu of zero balance invoices, provide invoice and cancelled check. Zero balance invoices are preferred if at all possible.
 - b. Provide staff hourly time sheets and hourly wage information for both in-kind cost share contributions and reimbursements.
8. Submit a **Single Paragraph Write-Up** of each project after closing to MA DCR Forest Legacy Program. Examples posted on [Forest Legacy Program](#) web site.
9. Finalize the **Project Status Spreadsheet** to ensure acreage and budget (expenses, reimbursements and cost share) are balanced and reconciled.
10. **Reimbursement Request** for due diligence expenses: all documentation including the completion of MA Forest Legacy Program “Project Expenses Spreadsheet” must be submitted within 30 days of recording a CR or Fee acquisitions, which includes \$0 balance invoices and / or cancelled checks, justification for staff time for all due diligence expenses, and cost-share.

Tips:

- Always complete title before appraisals. If the yellow book appraisal and/or yellow book review appraisal are completed before title exam is completed, the review appraiser must inspect the completed title and determine if the value of the appraisal has changed. In the same way, if the CR language changes after the appraisal reports are completed, the appraisers must review the new CR language to see if valuation has changed. Appraiser’s time for reviewing title that was ordered late, or for reviewing a CR with language changes after initial appraisal, may not be reimbursable by Forest Legacy.
- The best time to set up closings: January through March and August through October. The worst times are May and June (state fiscal year ending) and December (Forest Legacy staff on break).
- In a multi-tract project, close donation parcels and parcels with large bargain sales first so that you’ve banked enough cost share so that the MA DCR Forest Legacy Coordinator can feel comfortable reimbursing for due diligence costs before the entire multi-tract project is completed.
- If your project involved multiple tracts to be held by a municipality or state agency, complete those tracts at the same time so that you don’t need to keep going back to the municipality or agency again and again.
- All due diligence expenses cannot be counted as cost-share/reimbursable until the grant window opens.
- Partners and letters of support need to be updated for re-submittals.



Forest Legacy Program Acquisition Checklist For

Conservation Restrictions funded with FLP Funds



| Date Completed | In order to request the release of funds from the USFS and DCR cut check or DCR transfer funds to a municipality: |
|----------------|---|
| | 1. If the landowner does not have a vendor code with the state, fill out and submit a W-9 form . The W-9 form must be submitted to DCR at a minimum of 45 days prior to closing. |
| | 2. A title report with a certificate in compliance with the state's title specifications. Hard copy with original signatures in blue ink and PDF required. |
| | 3. An approved copy of the draft conservation restriction by the Forest Service and EEA (if held by a municipality) and then a mortgage subordination clause needs adding if the property has a mortgage. |
| | 4. Survey areas required by the title examiner in the title report. |
| | 5. Draft baseline documentation report . MS word for comments and PDF for final draft. |
| | 6. Approved forest stewardship plan or multi-resource management plan . Hardcopy and pdf required. |
| | 7. Approved NRCS Farm Conservation Plan , if there are "compatible non-forest uses" on the property. |
| | 8. Yellow book appraisal and appraisal review by a qualified appraiser. Hardcopy with original signatures in blue ink and PDF required. |
| | 9. Complete CR approval process. |
| | 10. A landowner letter which includes language of the market value of the appraisal and if applicable, the bargain sale amount. This letter is sometimes referred to as an amicable agreement. Hardcopy with original signatures in blue ink and PDF required. |
| | 11. A monitoring letter from the title owner which indicates who will do the monitoring and how this monitor has received training to be eligible for this work. Hardcopy with original signatures in blue ink and PDF required. |
| | 12. Shapefile . |
| | 13. Update FLIS |
| | 14. A title insurance commitment letter that is made prior to closing showing that an insurance policy will be issued once closed. Hardcopy with original signatures in blue ink and PDF required. |
| | 15. Memorandum of Agreement (MOA) |
| | 16. If a municipality is holding the CR , information which needs to be included in the Contract with the state (DCR) must be provided. Signed contracts and signature authorization forms must be submitted to DCR in a minimum of 45 days prior to closing. |
| | 17. Request release of funds from the Forest Service. All required due diligence listed above must be completed. |
| | 18. Closing/recording |



**Forest Legacy Program
Acquisition Checklist
For
Conservation Restrictions funded with FLP Funds**



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| | Within 30 days after closing: |
| | 1. Copy of Check or EFT from Town to Landowner Signed and Dated. |
| | 2. Stamped and Recorded CR or Deed. |
| | 3. The title rundown should be produced. Either a final title report or an email from the closing attorney explaining that nothing has changed with the title since the title report/certificate was completed to closing. |
| | 4. Title Insurance Policy |
| | 5. Final baseline documentation report. Hardcopy with original signatures in blue ink and CD/DVD required. |
| | 6. Press or Signage to acknowledge the Forest Legacy Program, DCR and USFS. |
| | 7. Zero balance invoices for cost share and reimbursements for due diligence expenses. |
| | 8. Single Paragraph Write-Up for each tract. |
| | 9. Finalized Project Status and Project Expenses Spreadsheets |
| | 10. Reimbursement Request for due diligence expenses. |